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Anti-Blackness as Disavowal and Condition: Rethinking Foucault's "Carceral Society"

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ABSTRACT Recent calls to "defund the police" have seen a plethora of movements decry state funds allocated to the police and ask that those funds be placed elsewhere. In this article, we return to Michel Foucault to analyze how calls for rebalancing budgets away from the police force and towards social projects both rely on political categories established in Foucault's work and encapsulates an aporia that emerges through them. Locating shifts towards the carceral in the context of European modernity, Foucault suggests that policing moves away from the spectacular torture and punishment of sovereign and state and towards technologies of power that proliferate across the social body. Here, we suggest that in this movement between sovereignty and power emerges a central tension that Foucault is incapable of resolving—between an exteriorized sovereignty (death) that necessarily appears at the extreme limits of power (life)—which threatens to destabilize the domain of power altogether. Race—as it appears in the European frame and reaching a zenith in Nazi Germany—encapsulates Foucault's attempted mitigation. If anything, this exacerbates the problem by rendering the terms of inclusion in the domain of power (of making life live) incoherent. To see why, we go on to show how freedom from racial slavery—as space of incapacity—is the conduit through which entry is possible into the differentiated power that supposedly limits the social. But as such, the slave precisely indexes the aporia for Foucault that cannot be sutured. The implications of this can be seen in the calls to defund the police insofar as it implicitly repeats Foucault's shift from police to social power.

KEYWORDS Michel Foucault, anti-Blackness, defund, freedom, policing, power, slavery

"Power is exercised only over free subjects, and only insofar as they are free"
– Michel Foucault, *The Subject and Power*

"A more appropriate word than hegemony is murder"
– Frank Wilderson, *Red, White, and Black*

1. Introduction

Recent calls to "defund the police" have seen a plethora of movements decry state funds allocated to the police and ask that those funds be placed elsewhere. As the homepage to one defund organization defines it:

#DefundPolice means divesting from institutions that kill, harm, cage and control our communities, and investing in violence prevention and interruption, housing, health care, income support, employment, and other community-based safety strategies that will produce safer communities for everyone.[1]

In this article, we return to Foucault to analyze how calls for rebalancing budgets away from the police force and towards social projects both rely on political categories established in the work of Michel Foucault and encapsulates an aporia that emerges through them.

Locating shifts towards the carceral in the context of European modernity, Foucault suggests that policing moves away from the spectacular torture and punishment of sovereign and state and towards technologies of power that proliferate across the social body. Conformity of behavior in liberal and neoliberal society is produced not through unmediated violence or domination, but through the distribution and channelling of action as "code of normalisation."[2] As such, Foucauldian power is perhaps better understood as the emergent result of a complex interplay of behaviors and practices across the entire social field: "'Power,' insofar as it is permanent, repetitious, inert, and self-reproducing, is

simply the overall effect that emerges from all these mobilities."[3] Foucault's discussion of the shift from sovereign power to biopower sees a naked, sovereign violence acting immediately on its subjects, superseded by different techniques of power that proliferate across the social field. Strategies of normalization, and powers aimed at "making life live" in particular ways take centre stage in a bid to dethrone analyses of power that train their gaze primarily on the power of the sovereign state.[4]

As such, Foucault's work represents a shift in focus to consider the proliferation of policing across the social field with power operating not primarily through the direct actions of a sovereign state, but through normalization and circulatory forms of power that embed and maintain normative order. Here, we suggest that in this movement between sovereignty and power emerges a central tension that Foucault is incapable of resolving—between an exteriorized sovereignty (death) that necessarily appears at the extreme limits of power (life)—which threatens to destabilize the domain of power altogether. Race—as it appears in the European frame and reaching a zenith in Nazi Germany—encapsulates Foucault's attempted mitigation. If anything, this exacerbates the problem by rendering the terms of inclusion in the domain of power (of making life live) incoherent. To see why, we go on to show how freedom from racial slavery—as space of incapacity—is the conduit through which entry is possible into the differentiated power that supposedly limits the social. But as such, the slave precisely indexes the aporia for Foucault that cannot be sutured. The implications of this can be seen in the calls to defund the police insofar as it implicitly repeats Foucault's shift from police to social power.

2. From Sovereignty to Power

In *Society Must be Defended* Foucault tracks a shift from the sovereign "right to kill" to the seemingly predominant mode of power that is "to make live and let

die."[5] Across Foucault's oeuvre there are unresolved tensions on this point. There are different places where he seems to suggest that the sovereign power of the right to kill becomes displaced or marginalized by other modern techniques of power, and others where he seems to suggest they are articulated together. As Golder and Fitzpatrick discuss in *Foucault's Law*, there is evidence that both supports and complicates the idea that Foucault sees law as eclipsed or expelled from modernity, as biopolitics and disciplinary power are extended. In their words, "on the one hand he would seem to counterpose the old forms of sovereignty and law to the new modalities of power (indicating that the latter are outstripping the former); on the other he would seemingly gesture towards their interaction or mutual interaction."[6] Nevertheless we do find in Foucault that the new form of power he is concerned to track has "very specific procedures, completely new instruments, and very different equipment" and therefore is "absolutely incompatible with relations of sovereignty."[7]

Emphasizing the paradoxical and aporetic ways Foucault formulates the relationship between sovereignty and biopolitics and insisting that their association cannot or should not be read in a "monolinear form," Roberto Esposito formulates the relationship between life and biopolitics in the following way:

Biopolitics does not limit or coerce [violenta] life, but expands it in a manner proportional to its development. More than two parallel flows, we ought to speak of a singular expansive process in which power and life constitute two opposing and complementary faces. To strengthen itself, power is forced at the same time into strengthening the object on which it discharges itself; not only, but as we saw, it is also forced to render it subject to its own subjugation. Moreover, if it wants to stimulate the action of subjects, power must not only presuppose but also produce the conditions of freedom of the subjects to whom it addresses itself.[8]

Below, we suggest that the production of these conditions of freedom of the subjects to whom power is addressing itself is precisely that which Foucault refuses to engage—a necessary but unthought obverse side of the mechanics of power with which he is concerned. Sovereignty here becomes of concern to the extent that it appears at the outer or extreme limits of Foucault's field of vision. If the new, modern mechanisms of power have the function of "binding" then sovereignty, by contrast, "does not bind; it enslaves."[9]

Relatedly, death appears in the production of life as an outside force not so much immanent and internal to biopolitics but as a separate, alien and ultimately anachronistic form that demands different conceptual, analytical, and theoretical tools. As one commentary has it, "why does biopolitics continually threaten to be reversed into thanatopolitics?"—especially since death is, for Foucault, "projected inside the circle of life."[10] Not dissimilar to arguments that foreground a "colonial boomerang" to explain the state dealing out death to its own citizens, death here is something that appears from the "outside" of biopolitics.[11] What is a constitutive relation between life and death here becomes a paradox or aporia—death becomes something that needs explaining in European space, while disciplinary power—and the power to "make life live," the power that binds and normalizes—is the power that is assumed to be predominant. Recalling the exteriorization of sovereignty from power, in no uncertain terms Foucault tells us that

death is outside the power relationship. Death is beyond the reach of power and power has a grip on it only in general, overall or statistical terms.[12]

What results is that the existence of totalitarianism appears, then, as a paradox or riddle to be "solved" via recourse to external concepts. Perhaps unsurprisingly, it is here then that "state racism" can enter the frame:

in the biopower system, in other words, killing or the imperative to kill is acceptable only if it results not in a victory over political adversaries, but in the

elimination of the biological threat to and the improvement of the species or race. There is a direct connection between the two. In a normalizing society, race or racism is the precondition that makes killing acceptable.[13]

So, death is made external to power: as Foucault tells us, "power is only exercised over those who are free."[14] Death enters the field of biopolitics in the form of racism, and insofar as it can be put to work to protect or improve "life in general."[15] That biopower is autonomous from sovereign power and works independently from what Foucault calls racism, then, is made clear when he states that "if the power of normalization wished to exercise the old right to kill, it must *become* racist."[16] This presumes, then, that the power of normalization is not always already racist, and similarly that the function of "racism" can be disentangled from biopower to the extent that they appear as autonomous and heterogeneous powers that at certain moments draw together reaching a zenith and maximum extension in the Nazi state.

Perhaps we might posit that Foucault's historicism projects the break that gives way to networked, rather than sovereign, power onto this break between colonial sovereignty and European power. But, as Alexander Weheliye suggests, Foucault's modernity is one that has always been resolutely European, with race and racism becoming pertinent only latterly and insofar as they are "manifested within Europe itself."[17] Foucault, Weheliye suggests, "accepts the difference between 'ethnic and biopolitical racism,' thereby naturalizing racial difference by placing 'other' races outside Europe."[18] Importantly, then, Foucault's account of power sees race and racism relevant only as it is "activated" by biopower within the European space in the nineteenth century, as something distinct from an earlier "external" racism. The new racism is biopolitical for Foucault in the sense that it uses Darwinian eugenics and discourses of purity to justify the supremacy of one race and how the "death of others makes one biologically stronger." [19]

As such, it is unsurprising that there have been attempts to rectify Foucault's biopolitics in the faces of such charges that it is ultimately a Eurocentric account unable to adequately explain the horrors of colonialism. For example, Achille Mbembe's *Necropolitics* ties biopower to the concepts of the state of exception, state of siege, and the enemy to identify mechanisms of violence that create "death-worlds" with entire populations being constructed as "living dead."[20] Not content with Foucault's account of the merging of biopolitics and sovereign power under the Nazi regime, Mbembe looks to the colonies and plantation for precursors to modern regimes that subjugate and kill.

In this regard, slavery for Mbembe is described as "one of the first instances of biopolitical experimentation" and here death is configured (contra Foucault and with Gilroy) as representing agency, since "death is precisely that from and over which I have power" in the sense that death via suicide under the conditions of plantation blurs the relationship between "resistance and suicide, sacrifice and redemption, martyrdom and freedom."[21] This seeks to resolve Foucault's aporetic articulation of the relationships between slavery, freedom, and power by expanding the conceptual domain of the biopolitical. But this resolution falters in the supposed inclusion of slavery within the biopolitical, wherein death itself must be coded as resistance, so threatening to destabilize the conceptual armature—of making life live—altogether.

3. Slavery; Necessary and Unthought

Let us now speculatively track this exacerbation of Foucault's aporia by returning to his refusal to address the condition of freedom of the subjects to whom power is addressing itself. Foucault's analysis of power has been criticized for failing to provide an account of freedom because we cannot be emancipated *from* power, rather freedom is understood as a kind of agonistic interplay within power.[22]

Freedom is, therefore, everywhere bounded and constrained by the complex conditions that power produces and across which power operates.[23]

However, if power circulates in such a way that we are its conduits—rather than an "inert or consenting target,"[24]—then we ought also to question the nature of freedom within these complex networks of indirect action. This indicates a kind of hydraulics of power and freedom in Foucault's social field, wherein neither can be thought without the other because freedom is a condition of the exercise of power (and vice versa). So, what is perhaps missed by these criticisms is that Foucault's analysis of power might just as easily be understood as offering an analysis of freedom, insofar as entire social worlds exist as subjugating fields that are reliant upon our freedom to acquiesce to them. This, as Andrew Johnson puts it, is to foreground the question of how and why "society colludes, effectively policing itself."[25] Why, if power can only be exercised over free subjects, do we freely allow ourselves to be judged according to norms, to have our actions channelled toward certain behaviors?[26]

This problem, of "why people freely bind themselves to power,"[27] looks analogous to the thorny problem of voluntary slavery that so vexed modern philosophical and theological articulations of freedom. In suggesting that "the relationship between power and freedom's refusal to submit cannot, therefore, be separated," Foucault argues that the "problem of power is not that of voluntary servitude (how could we seek to be slaves?)."[28] This seemingly easy dismissal of the problem belies the indeterminacy of being always already thrown into an agonistic interaction between "the recalcitrance of the will and the intransigence of freedom."[29] This is to say, our capacity for freedom is always already a renunciation of freedom insofar as we freely bind ourselves to power. But in so binding ourselves we are never truly enslaved since power is itself productive of freedoms since power never fully determines. In part due to this, voluntary servitude animates Foucault's account even in its dismissal, since power effectively forms the complex web through which freedoms are articulated.

For example, in the context of "mechanisms of power" that subjugate individuals, Foucault states that critique is the "art of voluntary inservitude."[30] In the context of a heterodox account of the Kantian Enlightenment, Foucault argues that the order of things is constituted by man, rather than God or a sovereign state; second, and relatedly, that there is a limit to knowledge that is imposed by us. Taken together, Foucault demonstrates that humanity comes into being through this analytic of finitude. With man taking the place of God, Foucault follows Kant's position against the rationalist tradition that articulates a relationship between man and the laws of the world, knowledge of which is limited by our position within "the great table of beings," since those limits are also understood to be "decreed or imposed by man."[31] However, as far as Foucault is concerned, whilst Kant's project of finitude is the condition of possibility for man taking the place of God, that project requires completion such that all forms of sovereignty are abandoned, including the epistemic and normative sovereignty at work in Kant's claims to universal validity. In *Society Must Be Defended*, he further describes the move towards normalization against "a juridical rule derived from sovereignty but a discourse about a natural rule, or in other words a norm."[32] Law as the expression of sovereign power is thus submerged and internalized within modernity's "code of normalization."[33]

It is in this context that critique becomes the art of voluntary inservitude precisely because the possibility of challenging mechanisms of power cannot call upon an external sovereign. Kant has already shown us that critique must be self-justifying. Here, Foucault tells us that we cannot appeal to that which lies outside of us because we are immersed in networks of power that provide the conditions of our subjectivation and in turn the conditions of critique—so in effect, there must be nothing outside to which we can appeal. The question of freedom that is exercised through its renunciation is found in the suturing of the domain of power:

[The] carceral network does not cast the unassimilable into a confused hell; there is no outside . . . . In this panoptic society of which incarceration is the

omnipresent armature, the delinquent is not outside the law; he is, from the very outset, in the law, at the very heart of the law.[34]

The subject is embedded within this interplay of critique and subjugation. But as such, the racial slave "marks-off" the domain of the social even where the slave cannot be exteriorized either spatially or temporally. For example, in *The Subject and Power*, Foucault states that

Where the determining factors are exhaustive, there is no relationship of power: slavery is not a power relationship when a man is in chains, only when he has some possible mobility, even a chance of escape.[35]

Foucault expands on this point in an interview "The Ethics of the Concern of the Self as a Practice of Freedom":

power relations are possible only insofar as the subjects are free. If one of them were completely at the other's disposal and became his thing, an object on which he could wreak boundless and limitless violence, there wouldn't be any relations of power. Even . . . when it can truly be claimed that one side has "total power" over the other, a power can be exercised over the other only insofar as the other still has the option of killing himself, of leaping out the window, or of killing the other person . . . if there were no possibility of resistance (of violent resistance, flight, deception, strategies capable of reversing the situation), there would be no power relations at all.[36]

Here slavery is articulated as the nexus of total incapacity and a totalized power that necessarily exists outside of the domain of power itself.[37] Slavery is here moved outside both death and even suicide (which is to say that the slave's suicide cannot recuperate the biopolitical). This articulation of slavery as total incapacity appears close, then, to Saidiya Hartman's articulation of slavery in terms of the "fungibility of the commodity [that] makes the captive body an abstract and empty vessel."[38] It is in defining slavery as complete domination that

must have been surpassed for entry into the domain of power that both servitude and inservitude cannot collapse into slavery. Since "slavery is not a power relationship," for Foucault, we are subjugated insofar as we are not slaves.[39] Servitude cannot also be slavery since our insertion into civil society—even where we are subjugated—requires us to always possibly operate against mechanisms of power in its critique. So, racial slavery is the conduit through which Foucault's carceral world becomes possible through its necessary voiding. In order to be a subject, one cannot be or have possibly been, a slave.

Thus racial slavery becomes the unthinkable conceptual armature that Foucault depends upon for the coherence of freedom across the board, marking out both the domain of freedom and subjectivity through the slave's fungibility. Civil society —even where this is articulated through complex networks of policing and normalization—relies on the spectral presence of racial slavery as impossibility for the subject of power. In the process of emptying-out the world of slavery, Foucault therefore not only buries the mass of Atlantic systems of contracts, trade, and people, but *draws upon that buried slavery* to enact the limits of the possible domain of the human world. It is the *marked evasion* of racial slavery that comes to be constitutive insofar as racial slaves necessarily exceed the world they are called upon to demarcate.

The incapacity "that the slave is made to inhabit" cannot appear in the differentially ordered space of power even as it provides its supposed coherence.[40] The disavowal of absolute incapacity is the condition of the differentiated power supposed to determine the limits of the social and the necessary potential for our critique within it. But as such, racial slavery therefore indexes an aporia for civil society that cannot be sutured even where the social field is understood in terms of all-encompassing carcerality.

4. Defunding as Expansion of the Social

The implications of this can be seen in the calls to defund the police insofar as it implicitly repeats Foucault's shift from police to social power. "Defund" thus operates in compliance with the expansion of a social realm that could only possibly foreclose racial slavery, operating at best as a survival program that conciliates with society's disavowed violences. The slave is necessarily removed from the domain of power, since entry into the domain of power requires that we are not and could never have been slaves. This shifts Foucault's attempted exteriorization of death (even as it returns through racism) into the register of an aporia that cannot be resolved. Insofar as defunding recapitulates the attempted shift away from the sovereign (death at the hands of the police) and towards the social (power exercised in the name of making live), we find that power is everywhere inescapable and so *all society* becomes charged with making power-relations as non-despotic as possible. But, not only is this drive pitifully low in its ambitions, it is granted coherence only by the continued presence—and impossibility—of the slave who cannot be thought. The sovereign is not excisable in submergence under social power, whose violence, as Frank Wilderson and Patrice Douglass describe, is "peculiar, in that, whereas some groups of people might be the recipients of violence, after they have been constituted as people, violence is a structural necessity to the constitution of [Blackness]."[41] Foucault claims that "having recourse to sovereignty against discipline will not enable us to limit the effects of disciplinary power."[42] Our claim, conversely, is that we cannot limit the effects of sovereign power by strengthening and recovering a social, biopolitical power.

Notes

1. "Defund The Police," accessed January 1, 2024, https://defundpolice.org < https://defundpolice.org> .
2. Michel Foucault, *Society Must be Defended* (Harmondsworth, UK: Penguin, 2004), 38.
3. Michel Foucault, *The History of Sexuality Volume 1: The Will to Knowledge* (Harmondsworth: Penguin, 1984), 93.
4. Foucault, *History,* 136.
5. Foucault, *History,* 136.
6. Ben Golder and Peter Fitzpatrick, *Foucault's Law* (Oxon: Routledge, 2009), 23.
7. Foucault, *Society*, 35.
8. Esposito, *Bios,* 40, 38–39.
9. Foucault, *Society*, 69.
10. Esposito, *Bios*, 43.
11. See, for example, Gargi Bhattacharyya et al., *Empire's Endgame: Racism and the British State* (London: Pluto Press, 2021), 153.
12. Foucault, *Society,* 248.
13. Foucault, *Society,* 256.
14. Michel Foucault, "The Ethics of the Concern of the Self as a Practice of Freedom," in *Ethics: Subjectivity and Truth*, ed. P. Rabinow (New York: New Press, 1997), 292.
15. Foucault, *Society,* 255.
16. Emphasis added, Foucault, *Society,* 256.
17. Alexander Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human* (Durham, NC: Duke University Press, 2014), 58.
18. Weheliye, *Habeas,* 59.
19. Foucault, *Society*, 258.
20. Achille Mbembe, "Necropolitics," *Public Culture*15, no. 1 (2003): 40.
21. Mbembe, Necropolitics, 40.

22. Canonical references are Nancy Fraser, *Unruly Practices: Power, Discourse and Gender* (Cambridge: Polity Press, 1989); Charles Taylor, "Foucault on Freedom and Truth," *Political Theory* 12, no. 2 (1984): 152–83, https://www.jstor.org/stable/191359 < https://www.jstor.org/stable/191359> .

23. Michel Foucault, "The Subject and Power," *Critical Inquiry* 8, no. 4 (Summer, 1982): 777–795, 841.

24. Michel Foucault, *Power/Knowledge: Selected Interviews 1972-1977,* ed. Colin Gordon (New York: Pantheon Books, 1980), 98.

25. Andrew Johnson, "Foucault: Critical Theory of the Police in a Neoliberal Age," *Theoria* 61, no. 141 (2014): 5–29, 61.

26. Saul Newman, "Power, Freedom and Obedience in Foucault and La Boétie: Voluntary Servitude as the Problem of Government," *Theory, Culture & Society* 39, no. 1 (2022): 123–41, 132.

27. Newman, "Power," 127.

28. Foucault, "Subject," 790.

29. Foucault, "Subject," 790.

30. Michel Foucault, "What Is Critique?," in *What is Enlightenment?: Eighteenth-Century Answers and Twentieth-Century Questions*, ed. James Schmidt (University of California Press, 1996), 386.

31. Hubert L. Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Chicago: Routledge, 1982), 29.

32. Foucault, *Society*, 38.

33. Foucault, *Society*, 38.

34. Michel Foucault, *Discipline and Punish* (Harmondsworth: Penguin Books 1977), 301.

35. Foucault, "Subject," 790.

36. Foucault, "The Ethics," 292.

37. See, for example, Sara-Maria Sorentino, "Abolish the Oikos: Notes on Incapacity from Antiquity to Marxist Feminism, Black Feminism, and Afro-pessimism," *Qui Parle: Critical Humanities and Social Sciences* 32, no. 1 (2023): 199–243.

38. Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 2010), 21.

39. Foucault, "Subject," 790.

40. Sorentino, *Abolish*, 202.

41. Patrice Douglass, and Frank Wilderson. “The Violence of Presence: Metaphysics in a Blackened World,” *Black Scholar* 43, no. 4 (2013): 117–23, 117. ↩

42. Foucault, *Society,* 39. ↩

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